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And Linda Johnson Rice*

12
13 UNITED STATES DISTRICT COURT
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15 NORTHERN DISTRICT OF CALIFORNIA
16
17 SAN FRANCISCO DIVISION

18 IN RE TESLA, INC. SECURITIES
19 LITIGATION

Case No. 3:18-cv-04865-EMC

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21 **DECLARATION OF NATHANIEL
SMITH IN SUPPORT OF
DEFENDANTS' ADMINISTRATIVE
MOTION TO SEAL AMENDED
EXHIBIT 182**

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1 **I, Nathaniel Smith, declare as follows:**

2 1. I am a member of the bar of the District of Columbia and serve as Managing Counsel
 3 for Defendant Tesla, Inc. I have been employed with Tesla since April 2021, and in the course of
 4 my employment have become familiar with Tesla's treatment of its proprietary business
 5 information, such as that described in this declaration. I have personal knowledge of the matters
 6 described below and I am competent to testify thereto.

7 2. I make this declaration pursuant to the Northern District of California Civil Local
 8 Rule 795(c), in support of Defendants' Administrative Motion To Seal Amended Exhibit 182
 9 ("Motion to Seal Am. Ex. 182").

10 3. On January 11, 2022, Plaintiff Glen Littleton ("Lead Plaintiff"), filed a Partial
 11 Motion for Summary Judgment ("MSJ") (ECF No. 352). On February 1, 2022, Defendants filed an
 12 Opposition to the MSJ, (ECF No. 365), which contains certain confidential information and relies
 13 on certain confidential exhibits and deposition testimony. Accordingly, Defendants also submitted
 14 an Administrative Motion to Seal (ECF No. 364), requesting that the Court seal the confidential
 15 excerpts in the Opposition, and exhibits and deposition testimony relied on.

16 4. Defendants now bring the Motion to Seal Am. Ex. 182 to correct one of the
 17 confidential exhibits filed in support of the Opposition.

18 5. In particular, Defendants are refiling an amended Exhibit 182 in condensed form,
 19 providing only excerpts of the specific pages cited in the Opposition.

20 6. The amended Exhibit 182 had been designated "Confidential" under the May 20,
 21 2020, Protective Order (ECF No. 255) entered in this case, and contains text messages of third party
 22 advisors with Tesla executives, and includes non-public, private business communications regarding
 23 reactions to, advice on, planning for, and funding of the Elon Musk's August 7, 2018 bid to take
 24 Tesla private. The personal contact information of numerous private individuals is contained
 25 throughout this condensed exhibit.

26 7. The revelation of the contents of amended Exhibit 182 will cause harm to Tesla by
 27 revealing financial, planning, personal, and commercial information that could be misconstrued for
 28 improper purposes. Such a release of material, in a piecemeal way, risks that the information will

1 be discussed and spread without the proper context and undermine Tesla's ability to receive a fair
2 trial. This risk of misinformation spreading is heightened because Tesla is one of the most followed
3 companies globally and its CEO, Elon Musk, is one of the most followed individuals in the world.
4 In Tesla's view, sealing the materials for a brief period of time—until trial—balances the public's
5 right to access with Tesla's ability to preserve the sensitive and confidential nature of its
6 information.

7 I declare under penalty of perjury under the laws of the State of California that the foregoing
8 is true and correct and that this document was executed in Washington, D.C.

9 DATED: February 8, 2022
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12 By /s/ Nathaniel Smith
13 Nathaniel Smith

14 ****

15 I, Kyle K. Batter, am the ECF user whose ID and password are being used to file the above
16 declaration. In compliance with Local Rule 5-1(h)(3), I hereby attest that Nathaniel Smith has
17 concurred in the filing of the above declaration.

18 DATED: February 8, 2022

19 QUINN EMANUEL URQUHART &
20 SULLIVAN, LLP

21 By /S/ Kyle Batter
22 Kyle Batter

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